



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mike D. McDaniel, Ph.D.
Secretary
Louisiana Department of Environmental Quality
P.O. Box 4301
Baton Rouge, Louisiana 70821-4301

Dear Dr. McDaniel:

Thank you for your December 21, 2006 letter in which the Louisiana Department of Environmental Quality (LDEQ) requested that the United States Environmental Protection Agency (EPA) extend the February 3 and 24, 2006 No Action Assurances (NAAs) (Attachments 1 and 2) through September 30, 2007. These NAAs, which currently are set to expire on February 3, 2007, provide flexibility for certain provisions of the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M, for demolition activities necessitated by Hurricanes Katrina and Rita.

In your letter, you note that, although much has been accomplished, there are still approximately 25,000 homes requiring demolition and that the NAAs provide needed flexibility to efficiently continue the demolition mission, while ensuring protection of public health and the environment. In light of the circumstances outlined by LDEQ in recent conversations between our staffs, and in a letter from Assistant Secretary Harold Leggett, received by EPA on January 29, 2007, most notably the significant volume of remaining homes that require expeditious demolition, today EPA is exercising its enforcement discretion and extending the February 3 and 24, 2006 NAAs through September 30, 2007. Because of the significant progress made in a number of parishes as noted in Dr. Leggett's letter, we are limiting the applicability of the NAAs extended in this letter to cover demolition activities in the following parishes, which are covered under Louisiana Emergency Declarations and Administrative Orders: Iberville, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. Tammany, Washington, Calcasieu, Cameron, and Vermilion.

Both LDEQ and Region 6 have done a tremendous job of overseeing the demolition activities under the February 3 and 24, 2006 NAAs and should be commended. Such oversight activities are critical to ensuring protection of public health and the environment and these ongoing efforts must continue (as described more fully below) under the extension granted

today. Furthermore, as LDEQ has described to EPA, the USACE and its contractors have conducted extensive sampling which indicate little or no asbestos emissions. Additionally, no measurable amounts of asbestos were found in any of the air samples taken by EPA at monitoring sites around the greater New Orleans area.

NAA Oversight

Under the February 3 and 24, 2006 NAAs, LDEQ and EPA trained approximately 120 inspectors to perform demolition oversight activities and those inspectors subsequently oversaw over 3,200 demolitions. LDEQ is committed to providing the necessary resources to perform the demolition oversight needed to restore the State of Louisiana. As a result of these oversight activities, LDEQ initiated 11 enforcement actions. Both LDEQ and EPA will continue to follow up on these actions and any additional instances of possible noncompliance with the February 3 and 24, 2006 NAAs and the asbestos NESHAP and Louisiana Emission Standards for Hazardous Air Pollutants with the appropriate enforcement action. For the duration of this NAA extension, LDEQ will continue to commit the resources necessary for demolition oversight as utilized in 2006. In turn, EPA Region 6 will continue to support LDEQ field activity based on the funding approved by FEMA under the existing Interagency Agreement (based on the Action Request Form received from LDEQ), which is available through September 30, 2007.

In addition to these oversight activities, EPA Region 6's Compliance Assurance and Enforcement Division (CAED) will conduct several on-site visits at demolition sites with LDEQ to jointly verify compliance. The on-site visits will be conducted on a monthly basis for the first three months starting in March 2007. These on-site visits will occur quarterly thereafter (i.e., once every three months thereafter). Through these on-site visits, CAED will observe the demolition practices and procedures being utilized in order to ensure compliance with the asbestos NESHAP requirements and the NAAs EPA is extending today. CAED also will review any field reports generated from inspection activities.

EPA Region 6 and LDEQ will continue to meet on a regular basis to discuss demolition activities covered under today's NAA extension. Such meetings will continue to include discussions of EPA's observations and oversight activities in addition to available monitoring data. These meetings will continue to include staff discussions regarding technical issues related to demolition activities. EPA Region 6 and LDEQ will continue to use quarterly managerial meetings to allow concerns to be identified and addressed.

Recommendations

As noted in the NAAs that are being extended by this letter, the work practice standards under the asbestos NESHAP continue to apply to demolitions covered by the NAAs, including ensuring adequate wetting of the material from before the demolition process through disposal. In addition, while not specifically required, EPA continues to recommend thoroughly wetting the interior to the extent possible through windows and door openings and/or through openings made into the attic spaces and/or walls from the exterior prior to demolition. Where field conditions allow, EPA also recommends that amended water be used for wetting, as this

significantly reduces the potential for asbestos release. The surfactant added to the water provides better wetting than regular water and helps ensure that the "no visible emissions" standard is met.¹ For further information on the use of amended water, please contact Region 6.

Limitations

Today's NAA extension applies only to the those persons and activities identified in the February 3 and 24, 2006 NAAs and then only to the extent such persons are operating and such activities are taking place in the following parishes, which are covered under Louisiana Emergency Declarations and Administrative Orders: Iberville, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. Tammany, Washington, Calcasieu, Cameron, and Vermilion. In addition, as is the case with the February 3 and 24, 2006 NAAs that are being extended in this letter, this NAA extension does not apply to any other federal requirements that may apply to residential demolition and disposal activities (other than the asbestos NESHAP provisions specifically discussed in the February 3 and 24, 2006 NAAs and herein). This extension is conditioned on continuation of the oversight activities described above, as well as all the other conditions specified in the February 3 and 24, 2006 NAAs. EPA continues to reserve the right to revoke or modify the NAAs that are extended by way of this letter, as well as the extension itself, if the Agency believes that such action is necessary to protect public health and/or the environment.

Through this extension of the February 3 and 24, 2006 NAAs, EPA is continuing its commitment to work with LDEQ in addressing the very difficult circumstances caused by Hurricanes Katrina and Rita. If you have any questions, please give me a call at 202-564-2440, or have your staff call Randy Hill of my staff at 202-564-2220 or John Blevins of EPA Region 6 at 214-665-2210.

Sincerely,



Granta Y. Nakayama
Assistant Administrator

Enclosures

cc: Richard Greene, Regional Administrator, Region 6
J.I. Palmer, Jr., Regional Administrator, Region 4
Dr. Harold Leggett, LDEQ
Dr. Chuck Carr Brown, LDEQ
Cheryl Nolan, LDEQ
BG Robert Crear, U.S. Army Corps of Engineers
Trudy Fisher, Executive Director, MDEQ

¹An example of how to use a wetting agent can be found in EPA's "Guidance for Controlling Asbestos-Containing Materials in Buildings" EPA-560/5-85-024 (Purple Book).